

TWENTY-NINTH ANNUAL REPORT
OF THE
OPEN MEETINGS COMPLIANCE BOARD



BOARD MEMBERS

LYNN M. MARSHALL, ESQ., CHAIR
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SEPTEMBER 2021

**TWENTY-NINTH ANNUAL REPORT
OF THE
OPEN MEETINGS COMPLIANCE BOARD**

The Open Meetings Compliance Board submits this annual report for the period running from July 1, 2020, through June 30, 2021 (“FY 2021”), in accordance with § 3-204(e) of the General Provisions Article (“GP”). In this report, we describe our activities, state the number and nature of our opinions and the violations we found over the last fiscal year, and discuss complaints that a public body has not given notice. We also state whether legislative improvements are needed.

INTRODUCTION

As detailed below, the Compliance Board’s primary function is to issue advisory opinions in response to complaints that public bodies have violated the Open Meetings Act. The Compliance Board also recommends improvements to the Act when needed. An additional function, in conjunction with the Office of the Attorney General, is conducting educational programs for the staffs and attorneys of public bodies, the Maryland Municipal League, the Maryland Association of Counties, and the Maryland Association of Boards of Education. GP § 3-204.

The Compliance Board was established as an independent State board of three members who are appointed by the Governor and serve without compensation. The Chair and the other members who served during the fiscal year—Nancy M. Duden, Esq., and Jacob Altshuler, Esq.—are all practicing attorneys. The Chair, Lynn M. Marshall, Esq., was appointed by Governor Hogan on July 1, 2020. We thank Ms. Marshall for her leadership and her service to the Board and the State. Ms. Duden resigned after the close of the fiscal year. We also thank her for her work on this Board. As of the date of the adoption of this report, a new member has not yet been appointed.

The Compliance Board has no budget and no staff of its own. The Office of the Attorney General provides counsel and administrative support, as required by statute, and posts the Compliance Board’s opinions on the Open Meetings webpage of the Attorney General’s website. However, the Compliance Board is an independent body and is not a part of the Office of the Attorney General.

I.

ACTIVITIES OF THE BOARD

A. Complaint Statistics

1. Complaints received and opinions issued

From July 1, 2020, to June 30, 2021, we received **36** written complaints concerning **31** separate entities. Twice the board combined two separate complaints and issued one opinion for each. This year’s docket included two complaints that were filed last year but resolved this year. One complaint was withdrawn. There were no prospective complaints. **Five** complaints will carry over to the next fiscal year.

We issued **30** opinions in all. In **19** opinions, we found violations, in varying degrees of seriousness, by **17** separate public bodies. In **11** opinions, we did not find a violation.

Several bodies drew multiple complaints. We addressed three complaints about the Housing Opportunity Commission of Montgomery County and found violations in all three cases. We received two complaints about the Montgomery County Council and found no violations. We received two complaints about the Howard County Board of Education, combined them, and issued one opinion that found no violation. We received three complaints about the Talbot County Council, combined two, and issued two opinions finding no violation.

The complaint docket was as follows:

Docketed Complaints from FY 2020, pending on July 1, 2020:	2
Complaints of violations, received during FY 2021	36
Total complaints on the docket for FY 2021:	38
Complaints consolidated	4 to 2
Complaints dismissed without an opinion.....	0
Complaints withdrawn.....	1
Total matters to address:	35
Opinions issued in FY 2021:	30
Complaints still pending on July 1, 2021:	4

2. The provisions violated

We issued 19 opinions in which we found violations of one or more provisions of the Act.

Eight complaints alleged violations of GP § 3-302, which requires reasonable notice of a meeting or its cancellation. We found violations in six of those cases and could not reach a conclusion in a seventh.¹ We provide more details below in Section I.B, beginning on page four.

In nine cases we found instances of public bodies improperly excluding the public from meetings. Eight cases involved violations of GP § 3-301, which generally requires a public body to open its meetings to the public. In three of those cases, the public bodies had wrongly characterized their discussions as administrative functions, exempt from the Act under § 3-103(a), *see 15 OMCB Opinions 11 (2021), 14 OMCB Opinions 108 (2020), 14 OMCB Opinions 79 (2020)*; two other cases involved public bodies discussing matters that exceeded claimed exceptions under GP § 3-305(b), which enumerates 15 exceptions

¹ In the seventh case, *15 OMCB Opinions 57 (2021)*, we lacked sufficient information to determine whether notice was timely. We did find a violation of GP § 3-302(d), but that provision does not pertain to notice in advance of a meeting but, rather, a public body’s duty to “keep a copy of a notice . . . for at least 1 year after the date of the session.” GP § 3-302(d).

that allow a public body to close a meeting to the public, *see* 15 *OMCB Opinions* 51 (2021), 14 *OMCB Opinions* 66 (2020). Of the remaining violations of GP § 3-301, two cases involved remote meetings and problems of technology, *see* 15 *OMCB Opinions* 28 (2021), 15 *OMCB Opinions* 55 (2021), and one case involved a public body that did not realize that its committees were also “public bodies” subject to the Act, *see* 14 *OMCB Opinions* 98 (2020). In addition to the eight violations of GP § 3-301, we found one violation of GP § 3-303(a), which provides that “the general public is entitled to attend” open meetings; the violating public body did not inform the general public how to obtain the Zoom information for its remote-only meetings. *See* 15 *OMCB Opinions* 32 (2021).

In six cases, we found violations of GP § 3-305(d), which sets forth the procedures for properly closing a meeting to the public. The violations involved failures to create a closing statement (explaining the topics to be discussed in closed session, the statutory authority for closure, and the need for secrecy), to conduct a recorded vote to close a meeting, to afford the public an opportunity to object, and to promptly send this Board a copy of the closing statement upon receiving an objection to closure.

In six cases, we found violations of the Act’s requirements for keeping minutes. All involved failures to provide required information about meetings closed to the public. Five cases involved a violation of GP § 3-306, governing minutes generally. One case involved a violation of GP § 3-104, which applies when a public body recesses an open session to carry out an administrative function in a meeting that is not open to the public.

In three cases, we found violations of GP § 3-302.1, which sets forth the requirements for agendas. These cases involved failures to make agendas available to the public, to include known topics of business on an agenda, and to notify the public of a closed session.

3. The complainants

In all, we addressed complaints from 35 individuals and entities, including three members of the media, two people acting on behalf of advocacy groups, and four government representatives.

4. The public bodies

This year, we addressed complaints concerning 26 entities. We determined that one of those entities, the Maryland Racing Steering Committee, was not subject to the Act. The remaining entities fell into the following categories: state agencies, county or municipal boards or commissions, local school boards, and local management boards for children, youth, and family services.

5. Conclusions from the statistics

As we have noted in previous annual reports, one must view our statistics in perspective. The overall number of complaints, and of those in which we found a violation, remains small in proportion to the total number of public bodies statewide. Nonetheless, to the extent this small sample can offer insight into overall compliance with the Act, we note

that fewer than half of this year's opinions finding violations involved a substantial interference with the public's right to observe public business. Many cases involved procedural errors, such as failing to properly document the reasons for closing a meeting, or of record-keeping, such as the failure to provide certain details in minutes. In three cases involving violations, the subject bodies contested their status as "public bodies" subject to the Act.

B. Complaints Involving the Failure to Provide Notice of a Meeting

Section 3-204(e) of the Act requires us to discuss complaints that reasonable notice of a meeting was not given, which we do here and in the quarterly summaries below in Part III. As already noted, *see above* page 2, we addressed notice in eight cases and found violations in six. The violations involved the failure to provide accurate dates and times of certain meetings, 15 *OMCB Opinions* 24 (2021); the failure to apprise the public of a cancelled meeting, 14 *OMCB Opinions* 72 (2020); the failure to inform the public of the intent to convene a meeting in closed session, 15 *OMCB Opinions* 19 (2021), 15 *OMCB Opinions* 5 (2021), 14 *OMCB Opinions* 66 (2020); and providing notice of a meeting only twenty minutes before it was scheduled to begin, 15 *OMCB Opinions* 51 (2021). In a seventh case, we were unable to conclude, based on the limited record, whether a public body's notice of meetings was timely. 15 *OMCB Opinions* 57 (2021). We did conclude, however, that the body had violated § 3-302(d) by failing to keep a copy of a notice for at least one year after the meeting. In an eighth case we found no violation of the reasonable notice provision but concluded that the public body violated the agenda requirement by omitting a known topic of business from the agenda. *See* 15 *OMCB Opinions* 1 (2021).

C. Nature of the Complaints – Overview of the Year

The issues we addressed this year are listed in the topic descriptions in the quarterly summaries in Part III, below. Not surprisingly, due to the increase in the number of remote meetings because of the COVID-19 pandemic, technology was a factor in more than a quarter of the complaints that we resolved. In one, we disagreed with the complainant's contention that the use of technology—specifically, a livestream, a television broadcast, and a "listen only" phone line—did not afford the public an adequate opportunity to observe public business. 14 *OMCB Opinions* 83 (2020). We similarly declined to find a violation based on "occasional glitches in the audio" of a livestream of another public body's meeting. 14 *OMCB Opinions* 111 (2020). In several other cases, however, we found violations of the Act based on technological problems that interfered with the public's right to observe public business. *See* 15 *OMCB Opinions* 28 (2021) (involving a livestream that stopped working); 15 *OMCB Opinions* 32 (2021) (involving a meeting by videoconference for which the password was not available to all members of the public); 15 *OMCB Opinions* 55 (2021) (involving a Zoom meeting with a capacity limit that did not accommodate all members of the public who wished to attend); 14 *OMCB Opinions* 66 (2020) (involving a failed livestream of a meeting on Facebook).

Aside from technology, we encountered several cases involving failures of a public body to satisfy the Act's requirements with respect to meetings closed to the public. Six cases involved failures to satisfy § 3-305(d), which sets forth the procedures for properly

closing a meeting to the public. *See* 15 *OMCB Opinions* 63 (2021) (failure to promptly send us a copy of the closing statement upon receiving an objection to closure); 15 *OMCB Opinions* 46 (2021) (failures to conduct a vote to close a meeting and to draft a closing statement before closure); 15 *OMCB Opinions* 37 (2021) (failure to provide sufficient detail in closing statements about the reason for closing a meeting to the public); 15 *OMCB Opinions* 19 (2021) (failures to record the votes for closure and to explain the reasons for closure); 15 *OMCB Opinions* 5 (2021) (failures to take a public vote on whether to close a meeting and allow the public to object to closure); 14 *OMCB Opinions* 66 (2020) (failures to draft a closing statement before closing a meeting and to explain the reason for closing a meeting to the public). Similarly, in six cases—involving many of the same public bodies—we found failures to include requisite information about closed sessions in minutes. *See* 15 *OMCB Opinions* 63 (2021) (failure to disclose requisite information about a closed session); 15 *OMCB Opinions* 46 (2021) (same); 15 *OMCB Opinions* 19 (2021) (same); 15 *OMCB Opinions* 5 (2021) (same); 14 *OMCB Opinions* 66 (2020) (same); 15 *OMCB Opinions* 11 (2021) (failure to include sufficient information about the topic discussed in a closed session to perform an administrative function).

On four occasions we opined on whether a particular entity was a public body subject to the Act. 15 *OMCB Opinions* 71 (2021); 15 *OMCB Opinions* 34 (2021); 15 *OMCB Opinions* 24 (2021), 14 *OMCB Opinions* 98 (2020). We answered in the negative only once. *See* 15 *OMCB Opinions* 34 (2021).

In cases in which we found no violations, the complaints most frequently alleged violations of the Act’s requirements with respect to minutes or agendas, *see* 15 *OMCB Opinions* 76 (2021); 15 *OMCB Opinions* 31 (2021); 14 *OMCB Opinions* 102 (2020); 14 *OMCB Opinions* 92 (2020); 14 *OMCB Opinions* 89 (2020); 14 *OMCB Opinions* 83 (2020); 14 *OMCB Opinions* 75 (2020); 14 *OMCB Opinions* 11 (2020); and/or challenged whether a particular function was “administrative” and thus, outside the scope of the Act, *see* 14 *OMCB Opinions* 105 (2020); 14 *OMCB Opinions* 92 (2020); 14 *OMCB Opinions* 83 (2020); 14 *OMCB Opinions* 64 (2020).

D. Financial Support and Educational Activities

The Attorney General’s Office provides the Board with the services of counsel and our Administrator, posts the Board’s opinions and other Open Meetings Act materials on its website, and bears the incidental costs associated with administering the Board’s work. The Board could not fulfill its statutory duties without this support, as no funds have ever been specifically appropriated for its operations, and none were for fiscal year 2021.

The Institute for Governmental Service and Research at the University of Maryland (“IGSR”) hosts, maintains, and performs updates to the online class that many public bodies rely on to comply with the Act’s training requirement. We thank the Institute for its service to the public in creating the online class, in conjunction with the Office of the

Attorney General, and in making it continuously available to the general public, currently at no charge to the public for access, and, to date, without charging for its services.²

Training on the Open Meetings Act was provided to local government officials and employees through the certificate program offered by the Academy for Excellence in Local Governance at the School of Public Policy at the University of Maryland, through the Maryland Association of Counties, the Maryland Municipal League, and the Maryland Municipal Attorneys Association. This year, presentations were given by Frank Johnson, (Assistant City Attorney, City of Gaithersburg), former Board chair April Ishak (City Attorney, Havre de Grace), and former counsel to the Board Ann MacNeille. We thank them for the valuable perspective they brought to these events.

During the pandemic, holding public meetings safely and in compliance with the Act has posed logistical and legal challenges for public bodies, which have benefitted from informal guidance that the Municipal Attorneys Association and Office of the Attorney General each prepared and posted.

E. Publication of Opinions Issued During the Fiscal Year

The Board's opinions for the 2021 fiscal year are posted at <http://www.marylandattorneygeneral.gov/Pages/OpenGov/OpenMeetings/index.aspx>, in Volume 14, beginning on page 64, and in Volume 15, pages 1 through 78. The table of contents for each volume lists each opinion, along with the name of the public body, the topics discussed, and notations of any provisions that we found violated. Quarterly summaries are published in the Maryland Register and appear in Part III of this report in a modified form.

II.

LEGISLATION - 2021 SESSION AND BOARD RECOMMENDATIONS FOR 2022

A. Legislation proposed and enacted in 2021

The General Assembly considered several amendments to the Open Meetings Act but adopted none.

House Bill 344 and Senate Bill 72 would have amended the Act by altering, for certain public bodies, the requirement that a public body make a meeting agenda available prior to each open meeting, and the requirement that the public body post and archive meeting minutes after each open meeting. Under current law public bodies generally are required to post an agenda and all meeting materials at least 24 hours before a meeting; the legislation would have required a "State agency in the executive branch or local board of elections" to post an agenda and all meeting materials on its website at least 48 hours in advance of each open meeting, except in cases of emergency. The legislation also would have required these bodies to offer live video and audio streaming of open meetings, to post archived recordings of those meetings on its website for at least one year, to approve

² The online class is posted at https://www.igsr.umd.edu/VLC/OMA/class_oma_title.php.

minutes “as soon as practicable and in a timely manner,” post minutes to the body’s website within two days after approval, and keep them there for five years. This Board neither supported nor opposed the legislation but noted that the legislation did not define “State agency in the Executive Branch,” which could have created confusion about which bodies were covered. The Board also noted that the legislation, which permitted a “searchable transcript” in lieu of minutes, could increase the burden on the Board in reviewing complaints that a public body had violated this provision. Finally, the Board noted that the legislation would have required subject bodies to post unedited archived recordings but provided no process for correcting errors in transcription. The legislation died after first reading.

House Bill 920 would have amended the definition of “administrative function.” Currently, the Act does not apply to a public body when it carries out an administrative function. House Bill 920 would have amended the definition of “administrative function” to exclude “any personnel matter that affects one or more specific individuals.” This Board opposed the legislation because it would not have expanded the public’s ability to observe meetings on personnel matters. While the bill expressly removed personnel matters from the administrative function exclusion, thus making them subject to the Act, it left in place the open-meeting exception in § 3-305(b)(1). That provision allows a public body to meet in closed session to consider “the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of an appointee, employee, or official over whom it has jurisdiction” or “any other personnel matter that affects one or more specific individuals.” GP § 3-305(b)(1). The Board expressed concern that this far-reaching bill could add significant administrative burdens for both public bodies and the Board, without any meaningful benefits in terms of increased public access to government decision-making. To date, the legislation has not become law.

B. Board recommendations for the 2022 Legislative Session

The Board does not recommend any legislative study or action at this time.

III.

SUMMARIES OF OPINIONS ISSUED FROM JULY 1, 2020 – JUNE 30, 2021³

July 1 - September 30, 2020

14 Official Opinions of the Compliance Board 64 (2020)

Cecil County Ethics Commission

Topics Discussed: Administrative Function Exclusion, Limitation of Compliance Board Authority

Opinion: The Compliance Board found that an ethics commission’s consideration of an ethics complaint is within the administrative function exclusion of the Act. It also provided guidance that the Board’s authority was limited to Open Meeting Act issues only.

Violations: None

14 Official Opinions of the Compliance Board 66 (2020)

Mayor and Council of the Town of Smithsburg

Topics Discussed: Meeting Notice, Open Meeting Requirement, Personnel Exception to Open Meetings, Legal Advice Exception to Open Meetings, Closed Meeting Practices, Closed Meeting Documents.

³ The opinions summarized here are posted on the Open Meetings webpage on the website of the Office of the Attorney General. Statutory references are to the General Provisions Article of the Maryland Annotated Code.

Opinion: The Board found that the Town Council violated the Act by continuing to meet virtually after learning of a malfunction that deprived the public of the opportunity to observe. The Board also found closed meeting violations, including failure to vote publicly to close, discussion of topics not disclosed, omitting the specific statutory citation in its closing statement, and failure to adopt a summary as part of the minutes in the next open meeting. The Board found that closing the meeting to review job applicants' resumes was within the Personnel Exception and provided guidance pertaining to closed meeting procedures.

Violations: §§ 3-301, 3-302, 3-305, and 3-306

14 Official Opinions of the Compliance Board 72 (2020)

Maryland State Board of Elections

Topics Discussed: Meeting Notice, Agenda Requirement, Open Meeting Requirement, Limitation of Compliance Board Authority

Opinion: The Board found a notice violation regarding a meeting cancellation. Regarding agenda and video access complaints, the Board found no violation under the agenda availability requirements and no violation of the Open Meeting requirement for conducting a conference call meeting that the public could listen to. It also provided guidance that the Board's authority was limited to Open Meeting Act issues only.

Violations: § 3-302

14 Official Opinions of the Compliance Board 75 (2020)

Montgomery County Council

Topics Discussed: Agenda Requirement, Compliance Board Complaints, Compliance Board Opinions

Opinion: The Board found no violation under the agenda requirement of the Act. The Board noted that a posted agenda is to include all known topics to be discussed and a public body may alter its agenda. The Compliance Board was unable to reach a conclusion as to when agenda items were known and offered guidance noting that neither the complainant nor the public body possesses the burden of proof.

Violations: None

October 1, 2020 – December 31, 2020

14 Official Opinions of the Compliance Board 79 (2020)

Prince George's County Commission for Children, Youth and Families (Local Management Board)

Topics Discussed: Administrative Function Exclusion, Notice Requirement, Open Meeting Requirement, Meeting Minutes, Complaint process

Opinion: The Board provided guidance pertaining to the Administrative Function Exclusion and its procedures. It found no violations of the minutes requirements but found violations of the notice and meeting access requirements.

Violations: § 3-301

14 Official Opinions of the Compliance Board 83 (2020)

Talbot County Council

Topics Discussed: Administrative Function, Open Meeting Requirements, Meeting Minutes

Opinion: No violation was found in the Council's claim of Administrative Function exclusion from the Act. The Board also found no violation regarding public comment, meeting access via live streaming, and timeliness of minutes.

Violations: None

14 Official Opinions of the Compliance Board 89 (2020)

Montgomery County Council

Topics Discussed: Agenda Requirement, Open Meeting Requirements, Board Authority

Opinion: The Board found no violation regarding the Council's altering its agenda contents or public comment procedures. Additionally, the Board provided guidance on the limitations of its authority.

Violations: None

14 Official Opinions of the Compliance Board 92 (2020)

Maryland State Board of Education

Topics Discussed: Administrative Function Exclusion, Open Meeting Requirements, Closed Session Requirements

Opinion: The Board provided guidance on the Administrative Function Exclusion to the Act and noted that the State Board of Education's complained-of meetings were within the exclusion. The Board also found no violation in open meeting requirements or closed meeting procedures. The Board provided guidance for conducting a closed session vote.

Violations: None

14 Official Opinions of the Compliance Board 98 (2020)

Housing Opportunities Commission of Montgomery County

Topics Discussed: Public Body Definition, Open Meeting Requirements, Closed Session Requirements, Training Requirement

Opinion: Committees of the Montgomery County Housing Opportunities Commission were determined to be public bodies. The Board found notice violations, open meeting violations, and closed session violations. The Board also provided guidance on the Act's training requirement.

Violations: § 3-301

14 Official Opinions of the Compliance Board 102 (2020)

Howard County Board of Education

Topics Discussed: Agenda Requirement, Board Complaint Procedures

Opinion: The Board found no violation with the agenda contents or procedures of the County School Board. It also provided guidance pertaining to its complaint procedures.

Violations: None

14 Official Opinions of the Compliance Board 105 (2020)

Talbot County Council

Topics Discussed: Administrative Function Exclusion, Meeting Definition

Opinion: The Board found no violation by the County Council regarding the complained-of meeting and the Council's claim of the Administrative Function exclusion. The Board determined that a telephone call limited to improving interpersonal relations was not a meeting.

Violations: None

14 Official Opinions of the Compliance Board 108 (2020)

Caroline County Board of Education

Topics Discussed: Administrative Function Exclusion, Closed Session – Personnel Exception.

Opinion: The Board found that the Caroline County School Board violated the Act with its claimed Administrative Function Exclusion for a meeting to approve personnel recommendations of the Superintendent, and provided guidance on the Personnel Exception to the Act.

Violations: § 3-301

14 Official Opinions of the Compliance Board 111 (2020)

Baltimore County Board of Education

Topics Discussed: Open Meeting Requirement, Meeting Minutes, Limitations of Board's Authority.

Opinion: The Board found no violation pertaining to public comment, meeting access via live-streaming, and posting of minutes. It also provided guidance on the limitations of its authority.

Violations: None

January 1 – March 31, 2021**15 Official Opinions of the Compliance Board 1 (2021)**

Mayor and City Council of Ocean City

Topics Discussed: Notice Requirement, Agenda Requirement, Limitations of Board's Authority.

Opinion: The Board found no violation in the web notice posted by the City Council for its meeting. It did, however, find a violation with the agenda not including all known topics to be discussed. The Board provided guidance on the Act's agenda requirement and the limitations of its authority.

Violations: § 3-302.1

15 Official Opinions of the Compliance Board 5 (2021)

Mayor and Council of the Town of Berlin

Topics Discussed: Notice Requirement, Agenda Requirement, Closed Session Procedures, Board Procedures.

Opinion: The Board found violations in the notice and agenda procedures of the Town pertaining to meetings held whose sole purpose was to hold a vote to close. The Board also found multiple violations in the Town's closed session practices, including its vote to close, closing statement, and closed session minutes. The Board determined that a discussion of public health protective measures was not within the claimed Public Security Exception. It found no violation, however, in the timing of the Town's meeting notice. Additionally, the Board provided guidance on its procedures regarding sealed meeting minutes.

Violations: §§ 3-302, 3-302.1, 3-305(e)(d), 3-306(c)

15 Official Opinions of the Compliance Board 11 (2021)

Wicomico County Board of Education

Topics Discussed: Administrative Function Exclusion, Closed Session Procedures, Board Procedures.

Opinion: The Board provided guidance pertaining to the Administrative Function Exclusion, and closed session procedures. It determined that a discussion of future measures and approving plans exceeded scope of the exclusion. The Board found meeting access, and minutes violations as well. The Board provided guidance as to its treatment of confidential sealed minutes.

Violations: §§ 3-301, 3-104

15 Official Opinions of the Compliance Board 19 (2021)

Housing Opportunities Commission of Montgomery County

Topics Discussed: Administrative Function Exclusion, Notice Requirement, Closed Session Procedures.

Opinion: The Board provided guidance pertaining to the Administrative Function Exclusion's applicability to personnel matters. It found violations by the Commission pertaining to meeting notice, closed session procedures, and closed session minutes.

Violations: §§ 3-302(b), 3-305(d), 3-306(c)

15 Official Opinions of the Compliance Board 24 (2021)

Rockville Economic Development, Inc. (REDI)

Topics Discussed: Public Body Definition, Notice Requirement, Agenda Requirement, Meeting Minutes

Opinion: The Board determined REDI, a nonprofit created by the city to perform a variety of public functions, was a public body. The Board found multiple violations pertaining to REDI's meeting notice procedures and provided guidance on the agenda and minutes requirements of the Act.

Violations: § 3-302(a)

15 Official Opinions of the Compliance Board 28 (2021)

Chestertown Town Council

Topics Discussed: Open Meeting Requirement, Limitations of Board's Authority

Opinion: The Board found that the Town Council violated the Act by continuing a virtual meeting when the live stream failed to provide public access. The Board also issued guidance pertaining to the limitations of its authority.

Violations: § 3-301

15 Official Opinions of the Compliance Board 31 (2021)

Carroll County Board of Education

Topics Discussed: Meeting Minutes

Opinion: The Board found no minutes violation when the school board failed to prepare written minutes because the live and archived video of the open session was readily available as minutes.

Violations: None

15 Official Opinions of the Compliance Board 32 (2021)

Section 3 of the Village of Chevy Chase

Topic Discussed: Open Meeting Requirement

Opinion: The Board provided guidance for noticing virtual open meetings. It found that the Village violated the act by not informing nonresident members of the public how to obtain Zoom information for its remote-only meetings.

Violations: § 3-303(a)

15 Official Opinions of the Compliance Board 34 (2021)

Maryland Racing Steering Committee

Topic Discussed: Public Body Definition

Opinion: The Board determined that the Racing Steering workgroup was not a public body.

Violations: None

15 Official Opinions of the Compliance Board 37 (2021)

Housing Opportunities Commission of Montgomery County

Topics Discussed: Agenda Requirement, Closed Session procedures

Opinion: The Board provided guidance pertaining to procedures for holding a vote to close on a virtual meeting platform. It found violations pertaining to the closed session procedures of the Commission but found no violation of the Act with an agenda that failed to include the closed session agenda.

Violations: § 3-305(d)(2)

April 1 – June 30, 2021**15 Official Opinions of the Compliance Board 46 (2021)**

Town of Keedysville

Topics Discussed: Meeting Definition, Closed Session – Personnel Exception, Closed Session Requirements, Board Complaint Procedures

Opinion: The Board provided guidance related to electronic communications and meetings, as well as closed session procedures. It determined the Town's consideration of public business, via a continuous exchange of electronic communications, over a discrete period of time to be a meeting. The Board also found violations of the Act by the Town in its closed session procedures, and minutes. The Board found the closed session personnel discussion was within the exception and reached no conclusion about an email exchange in which it had insufficient information to determine whether the exchange constituted a meeting.

Violations: §§ 3-305(d), 3-306(c)(2)

15 Official Opinions of the Compliance Board 51 (2021)

Prince George's County Board of Education

Topics Discussed: Notice Requirements, Closed Session – Personnel Exception, Closed Session – Legal Advice Exception

Opinion: The Board provided guidance pertaining to the Legal Advice Exception to the Act, and in terms of the Personnel Exception found the discussion of office reorganization, pertaining to positions and not individuals, outside of the exception. The Board also found a notice violation by the school board.

Violations: § 3-301, 3-302(a)

15 Official Opinions of the Compliance Board 55 (2021)

Mayor and Council, Town of Cheverly

Topics Discussed: Open Meeting Requirements

Opinion: The Board provided guidance regarding meeting access and overflow in the case of virtual meetings. It noted no violation in the Town's choice of online venue but found a violation when the Town continued to meet virtually despite notification that some members of the public were deprived of the opportunity to observe.

Violations: § 3-301

15 Official Opinions of the Compliance Board 57 (2021)

City Commission of District Heights

Topics Discussed: Notice Requirement, Agenda Requirement, Open Meeting Requirement, Limitations of Board's Authority

Opinion: The Board provided guidance related to methods of meeting notice, its own complaint procedures, and the limitations of its own authority. The Board found no violation in the City's method of notice, but found a violation in the City's failure to retain a copy of its notice for one year. The Board also found a violation when the City failed to make its meeting agenda available to the public. The Board found no violation of the Act in the public comment procedures of the City.

Violations: §§ 3-302.1, 3-302(d)

15 Official Opinions of the Compliance Board 63 (2021)

Charles County Planning Commission

Topics Discussed: Open Meeting Requirement, Closed Session – Legal Advice Exception, Closed Session Procedures, Limitations of Board's Authority

Opinion: The Board offered guidance to the Legal Advice Exception to the Act as well as the limitation of the Board's authority. The Board found no violation of the Act in the public comment procedures of the Commission, or its closed session statement. Violations related to the failure to timely report an objection to close, and failure to report each member's vote on a motion to close.

Violations: §§ 3-305(d)(3), and 3-306(c)(2)(ii)

15 Official Opinions of the Compliance Board 71 (2021)

The Family League of Baltimore City, Inc.

Topics Discussed: Public Body Definition

Opinion: The Board determined that the Local Management Board, established pursuant to a State statute, was a public body.

Violations: None

15 Official Opinions of the Compliance Board 76 (2021)

Glenarden City Council

Topic Discussed: Agenda Requirement

Opinion: The Board found no violation of the agenda requirement and provided guidance, noting that using multiple agendas to satisfy the agenda requirement should be avoided.

Violations: None